

**SUPREME COURT MINUTES
TUESDAY, AUGUST 11, 1998
SAN FRANCISCO, CALIFORNIA**

S047306 People, Respondent

v.

David Hernandez, Appellant

Review was granted in this matter on August 17, 1995, and further action deferred pending the United States Supreme Court's opinion in *Monge v. California* (June 26, 1998) __U.S.__ [66 U.S.L. Week 4628].

The parties are hereby directed to file supplemental briefs addressing the applicability of *Monge v. California* and *Almendarez-Torres v. U.S.* (1998) 523 U.S. __ [118 S.Ct. 1219] to the issues in this case. The briefs are to be served and filed on or before September 14, 1998.

S009169 People, Respondent

v.

Martin James Kipp, Appellant

On application of appellant and good cause appearing, it is ordered that the time to serve and file appellant's opening brief is extended to and including October 2, 1998.

S033901 People, Respondent

v.

Catherine Thompson, Appellant

On application of appellant and good cause appearing, it is ordered that the appellant is granted to and including September 11, 1998, to request correction of the record on appeal.

No further extensions of time are contemplated.

S058819 In re Mark Anthony Reilly

on

Habeas Corpus

On application of petitioner and good cause appearing, it is ordered that the time to serve and file petitioner's reply to informal response to the petition for writ of habeas corpus is extended to and including October 23, 1998.

S070114 Peter Ramirez, Appellant

v.

Yosemite Water Company, Inc., Respondent

On application of appellant and good cause appearing, it is ordered that the time to serve and file appellant's opening brief is extended to and including August 28, 1998.

S070599 Arlayna Samuels, Appellant

v.

Terence J. Mix et al., Respondents

On application of respondent and good cause appearing, it is ordered that the time to serve and file respondents' opening brief on the merits is extended to and including September 6, 1998.

S016569 People, Respondent

v.

Mark Alan Bradford, Appellant

The application of appellant to review and copy the materials contained in the court's records, including any materials designated as confidential or under seal in this case is granted. Appellant will supply the personnel and equipment necessary to undertake this review and copying of records, which shall occur on the premises of this court.

S034800 People, Respondent

v.

Richard Lucio De Hoyos, Appellant

Upon request of appellant for appointment of counsel, Michael B. Dashjian is hereby appointed as lead counsel, and Charles R. Khoury, Jr. is appointed as associate counsel, to represent appellant Richard Lucio DeHoyos for the direct appeal in the above automatic appeal now pending in this court.

S035190 People, Respondent

v.

Eric Christopher Houston, Appellant

Upon request of appellant for appointment of counsel, David H. Schwartz is hereby appointed to represent appellant Eric Christopher Houston for both the direct appeal and related state habeas

corpus/executive clemency proceedings, in the above automatic appeal now pending in this court.

S036864 People, Respondent

v.

Jose Francisco Guerra, Appellant

Upon request of appellant for appointment of counsel, the State Public Defender is hereby appointed to represent appellant Jose Francisco Guerra for the direct appeal in the above automatic appeal now pending in this court.

S043520 People, Respondent

v.

Carl Devon Powell, Appellant

Upon request of appellant for appointment of counsel, Neoma D. Kenwood is hereby appointed as lead counsel, and Kat Kozik is appointed as associate counsel, to represent appellant Carl Devon Powell for the direct appeal in the above automatic appeal now pending in this court.

S070606 In re **Lazaro J. Machado** on Discipline

It is ordered that **Lazaro J. Machado** be suspended from the practice of law for three years and until he has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct, that execution of suspension be stayed, and that he be placed on probation for three years subject to the conditions of probation, including 9 months actual suspension, recommended by the Hearing Department of the State Bar Court in its Order regarding the stipulation filed October 3, 1997. It is further ordered that he comply with rule 955, California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and those costs are payable in accordance with section 6140.7 (as amended effective January 1, 1997).

*(See Business & Professions Code, § 6126, subd. (c).)

S070608 In re **James McKiernan** on Discipline

It is ordered that **James McKiernan** be suspended from the practice of law for two years, that execution of suspension be stayed, and that he be placed on probation for three years subject to the conditions of probation, including 90 days actual suspension, recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed January 27, 1998, as modified by its orders filed February 5, 1998 and April 7, 1998. It is also ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) It is further ordered that he comply with rule 955, California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar pursuant to Bus. & Prof. Code section 6086.10 and one-third of said costs shall be added to and become part of the membership fees for the years 1999, 2000, 2001.

*(See Business & Professions Code, § 6126, subd. (c).)

S070611 In re **Marshall Curtis Sanders** on Discipline

It is ordered that **Marshall Curtis Sanders** be suspended from the practice of law for two years, that execution of suspension be stayed, and that he be placed on probation, including 75 days actual suspension, recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed April 13, 1998. It is also ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) It is further ordered that he comply with rule 955, California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and are payable in accordance with Business and Professions Code section 6140.7 (as amended effective January 1, 1997).

*(See Business & Professions Code, § 6126, subd. (c).)

S070612 In re **Ira Seltzer** on Discipline

It is ordered that **Ira Seltzer** be suspended from the practice of law for 90 days, that execution of suspension be stayed, and that he be placed on probation for one year subject to the conditions of probation, including restitution, recommended by the Hearing Department of the State Bar Court in its Further Order Regarding Stipulation filed April 6, 1998. It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and are payable in accordance with Business and Professions Code section 6140.7 (as amended effective January 1, 1997).

S070613 In re **Haskell Jerome Shapiro** on Discipline

It is ordered that **Haskell Jerome Shapiro** be suspended from the practice of law for two years and until he has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct, that execution of suspension be stayed, and that he be placed on probation for two years on condition that he be actually suspended for 30 days. He is also ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its order regarding the stipulation filed April 10, 1998. It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and those costs are payable in accordance with section 6140.7 (as amended effective January 1, 1997).

S070614 In re **David Cyrano Dantes** on Discipline

It is ordered that **David Cyrano Dantes** be suspended from the practice of law for two years and until he has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional

Misconduct, that execution of suspension be stayed, and that he be placed on probation for two years on condition that he be actually suspended for 30 days. He is also ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed March 20, 1998. It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order, whichever is greater. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar pursuant to Bus. & Prof. Code section 6140.7.

S070615 In re **Joseph M. Montoya, III** on Discipline

It is ordered that **Joseph M. Montoya, III** be suspended from the practice of law for three years and until he makes restitution as ordered in S037361, files his final probation report for probation ordered in S037361, completes four hours of California Minimum Continuing Legal Education approved courses on law office management as ordered in S042789, and furnishes the State Bar Probation Unit with satisfactory written proof thereof, that execution of suspension be stayed, and that he be placed on probation for three years on condition that he be actually suspended for one year and until he has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct, and until he makes restitution as ordered in S037361, files his final probation report for probation ordered in S037361, completes four hours of California Minimum Continuing Legal Education approved courses on law office management as ordered in S042789, and furnishes the State Bar Probation Unit with satisfactory written proof thereof. He is further ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed February 5, 1998. It is also ordered that he take and pass the Multistate Professional Responsibility Examination during the period of his actual suspension. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) He is further ordered to comply with rule 955, California Rules of Court, and perform the acts specified in subdivisions (a)

and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and are payable in accordance with Business and Professions Code section 6140.7.

*(See Business & Professions Code, § 6126, subd. (c).)

S070619 In re **Douglas T. Richardson** on Discipline

It is ordered that **Douglas T. Richardson** be suspended from the practice of law for two years, that execution of suspension be stayed, and that he be placed on probation for two years subject to the conditions of probation, including actual suspension, recommended by the Hearing Department of the State Bar Court in its Order Regarding Stipulation filed March 26, 1998. Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and are payable in accordance with Business and Professions Code section 6140.7 (as amended effective January 1, 1997).

S070631 In re **Albert G. Wiemans** on Discipline

It is ordered that **Albert G. Wiemans** be suspended from the practice of law for one year, that execution of suspension be stayed, and that he be placed on probation for two years on condition that he be actually suspended for 60 days. He is also ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed April 10, 1998. It is further ordered that he take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar pursuant to Business and Professions Code section 6140.7 (as amended effective January 1, 1997) and one-third thereof shall be paid prior to each February 1 of calendar years 1999, 2000, and 2001.

S070681 In re **Michael Kevin Maloney** on Discipline

It is hereby ordered that **Michael Kevin Maloney** be summarily disbarred from the practice of law and that his name be stricken from the roll of attorneys. He is also ordered to comply with rule 955, California Rules of Court, and to perform the acts specified in

subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10 payable in accordance with Business and Professions Code section 6140.7, as amended effective January 1, 1997).

*(See Business & Professions Code, § 6126, subd. (c).)

S70682 In re **Louis Steven Sanchez** on Discipline

It is ordered that **Louis Steven Sanchez** be suspended from the practice of law for one year, that execution of suspension be stayed, and that he be placed on probation for two years subject to the conditions of probation, including 90 days actual suspension, recommended by the Review Department of the State Bar Court in its opinion filed April 2, 1998. Probation shall commence upon the termination of the probation ordered in S044691 (95-PM-17574). It is further ordered that he comply with rule 955, California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10 payable in accordance with section 6140.7 (as amended effective January 1, 1997).

*(See Business & Professions Code, § 6126, subd. (c).)

S070685 In re **Rebecca Madelin Ortiz** on Discipline

It is ordered that **Rebecca Madelin Ortiz** be suspended from the practice of law for one year, that execution of suspension be stayed, and that she be placed on probation for two years subject to the conditions of probation recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed April 10, 1998. Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and are payable in accordance with section 6140.7.

S070688 In re **Edmond Ralph Anderson, Jr.** on Discipline

It is hereby ordered that **Edmond Ralph Anderson, Jr.** be disbarred from the practice of law and that his name be stricken from the roll of attorneys. He is also ordered to comply with rule 955, California Rules of Court, and to perform the acts specified in

subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10 payable in accordance with Business and Professions Code section 6140.7, as amended effective January 1, 1997.

*(See Business & Professions Code, § 6126, subd. (c).)

S070690 In re **Bruce Edward Traney** on Discipline

It is ordered that **Bruce Edward Traney** be suspended from the practice of law for two years, that execution of suspension be stayed, and that he be placed on probation for two years subject to the conditions of probation, including actual suspension for 30 days, recommended by the Hearing Department of the State Bar Court in its order regarding the stipulation filed December 18, 1997. It is also ordered that he take and pass the Multistate Professional Responsibility Examination, within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and are payable in accordance with Business and Professions Code section 6140.7.

S070693 In re **William Wong Woo** on Discipline

It is ordered that **William Wong Woo** be suspended from the practice of law for two years and until he shows proof satisfactory to the State Bar Court of rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct, that execution of suspension be stayed, and that he be placed on probation for three years on condition that he be actually suspended for 60 days. He is also ordered to comply with the other conditions of probation, including restitution, recommended by the Hearing Department of the State Bar Court in its order regarding stipulation filed April 7, 1998. It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order or during the period of his actual suspension, whichever is longer. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10 payable

in accordance with Business and Professions Code section 6140.7 (as amended effective January 1, 1997).

S070698 In re **Harry Edward Weiss** on Discipline

It is ordered that **Harry Edward Weiss** be placed on probation for one year subject to the conditions of probation, including restitution, recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed February 27, 1998, as modified by its order filed April 7, 1998. The period of probation shall be consecutive to the period of probation previously imposed in S065653 (95-O-10140, et al.) Costs are awarded to the State Bar and shall be added to and become part of the membership fee for the next calendar year. (Bus. & Prof. Code, § 6140.7.)

S070702 In re **Harold D. Thompson** on Discipline

It is ordered that **Harold D. Thompson** be suspended from the practice of law for five years, that execution of suspension be stayed, and that he be placed on probation for five years on condition that he be actually suspended for three years and until he has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct. He is further ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its order regarding the stipulation filed April 7, 1998. Credit shall be given for the period of interim suspension commencing March 13, 1997. (*In re Young* (1989) 49 Cal.3d 257, 270.) It is also ordered that he take and pass the Multistate Professional Responsibility Examination during the period of his actual suspension. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and those costs are payable in accordance with section 6140.7 (as amended effective January 1, 1997).

S070743 In re **Sidney H. Arden** on Discipline

It is ordered that **Sidney H. Arden** be suspended from the practice of law for one year, that execution of suspension be stayed, and that he be placed on probation for three years subject to the conditions of probation, including 60 days actual suspension and

restitution, recommended by the Hearing Department of the State Bar Court in its decision filed March 6, 1998. It is also ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and are payable in accordance with Business and Professions Code section 6140.7 (as amended effective January 1, 1997).

S070745 In re **Ireneo M. Galicia** on Discipline

It is ordered that **Ireneo M. Galicia** be suspended from the practice of law for five years, that execution of suspension be stayed, and that he be placed on probation for five years on condition that he be actually suspended for two years and until he makes restitution to Marian Tan Bayona, or to the State Bar Client Security Fund if appropriate, in the amount of \$2,500.00 plus 10% interest per annum from October 16, 1993 and furnishes satisfactory proof thereof to the State Bar Probation Unit. He shall remain actually suspended from the practice of law until he has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct. He is also ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its decision filed March 17, 1998. He is further ordered to provide the State Bar Probation Unit with satisfactory proof that he has taken and passed the Multistate Professional Responsibility Examination during the period of his actual suspension. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) He is also ordered to comply with rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and are payable in accordance with Business and Professions Code section 6140.7 (as amended effective January 1, 1997).

*(See Business & Professions Code, § 6126, subd. (c).)

S070746 In re **John Howard Young** on Discipline

It is hereby ordered that **John Howard Young** be disbarred from the practice of law and that his name be stricken from the roll of attorneys. He is also ordered to comply with rule 955, California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and those costs be payable in accordance with section 6140.7 (as amended effective January 1, 1997).

*(See Business & Professions Code, § 6126, subd. (c).)